





DECIMARVM ET OBLATIONVM
TABVLA.

A Tithing Table.

OR

*Table of Tithes and Oblations, according
to the Kings Ecclesiasticall Lawes and Ordina-
nces established in the Church of England :*


Now newly reduced into a Booke.

**Contayning as well the very letter of the
Law vnder which these rights be severally comprised, together
with such Questions of Tything, and their Resolutions by
the Lawes Canon, Civill, and approved Doctors opinions
of the same, as be ordinarily moved, and which doe of-
ten prove to controuersies herein :**

**As also a briefe and summarie declaration of
Composition, Transaction, Custome, Prescription, Prinilege,
And how they preuaile in Tything.**

Compiled by W. C. BACH. of the Civill LAW.

LONDON,

 Printed by Thomas Purfoot.

An. Dom. 1633.

ANNEXXED HEREVNTO SVMMA-
rily, such Statute Lawes of the Land concerning
these rights, as haue been herein authorised, and
now doe remaine in their force accordingly.

To the easie and plaine instructions of all the Kings Sub-
iects Ecclesiasticall or Lay, within his Maiesties dominions,
*interessed, whether in these rights to demand them,
or bounden to performe the same.*

Eccl. 25. Hallow thy Tythes vnto God with
gladnesse:

Prou. 3. So shall thy Barnes bee filled with
plenteoufnesse, and thy presses
flow over with sweet Wine.

THE PREFACE.

THE *Canon and Civill Lawes*
 (Christian Reader) since first
 K. *Henry* of happy memory
 the Eight, dismembred their
 bodies, ^a and restored to the Diadem of ^{25. He. 8. 19}
 the Land (over the state Ecclesiasticall) the
 Ancient Iurisdiction of the Crowne, they
 haue and do lie hidden, such of them as K.
Henry then continued, and K. *Edward* ^b that ^{2. Ed. 6. 13.}
 succeeded him, Intituled in his Raigne the
 Kings, and afterwarde were the late
 Queenes deceased, and as they bee now
 tearmed, *The Kings Ecclesiasticall Lawes*,
 (the former statutes revived by Her Ma-
 iestie, ^c in the first yeare of her Raigne) ^{1. Elizab. 2}
 they have, these Lawes, and doe lie hidden
 in manifold, darke, and dangerous corners,
 in practise onley familiar in Consistories,
 and their knowledge to the Countries ob-
 scure: hence are the manifold vntime-
 ly

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ly Customes and Prescriptions that wee have : I inveigh not against them, neither custome nor prescription, that bee perfect now and in their perfect being, I would not be taken, or rather mistaken so : but they be weeds in their growing & all their ingendring time, wherein (only) they give place to prevention : they bee Lawes of themselves (in their ripenesse) inviolable^d.

^d Glo. & DD
in c. vigilant
de præscrip.

If therefore some insight into these lawes, and knowledge succeeding this long obscurity, may worke another effect in the time to come, none can say vprightly now that he is, may be, or his posterity after him (if not benefited) damnified thereby: happily I may be charged (in translating) to haue damnified the Lawes, I haue shadowed (I confesse) their first and originall grace, such beauty haue they and elegancy too, in the Latine tongue: but I write to English-men; and such as not so much affect to heare of the beauty, as they be desirous to vnderstand the benefit of their Lawes: for such I haue framed this *Tything Table*, and replenished (as my slender skill would

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would serue) the same, with necessary, dispersed, and scattered lawes, not hurtfull, considered as they be delivered, nor preiudiciall to the Royall prerogatiue, nor repugnant to the Lawes, Statutes, nor Customs of this Land. Tythes (by sale) be turned into chattels ^e, and made of spirituall, temporall things: in debate (of the right of patronage) in Tythes, and exceeding the fourth part of the value of the Church^f, where great wood is demanded in the name of *Silva Cedua* ^g, in Tythes and Oblations, where there is any state of Inheritance ^h, and where they be demanded, and be neither due nor accustomed ⁱ, the Kings prohibition doth lie in all these cases and no consultation: otherwise, and without such temporall mixtures, prohibition hath no place ^k: but the Iudge Ecclesiasticall hath power to proceed, notwithstanding the Kings prohibition^l. Conceiving them therefore (*Christian Reader*) as they be meant, and mentioned to be presented vnto thee, *viz.* As they be meereley spirituall Tythes and Oblations,

^e Art. cler. 9.

^f Ed. 2. 1.

^g 9. Ed. 2. 2.

^h 34. Ed. 1. 1. de coniunctim feofatis.

ⁱ 45. Ed. 3. 3.

^j 3. Hen. 8. 7.

^k 13. Ed. 1. circ. agat.

^l Fitz. de natura brevium, Fol. 50. de consuetudine.

^m 9. Ed. 2. circumspicit agatis. 13. Ed. 1.

THE PREFACE

and without any Temporall mixture,
thou shalt not misconstrue the Author,
nor deceive thy selfe. Farewell.

LONDON the Twenty ninth
of *Aprill*. 1591.

The Readers (ever) in the LORD,

W. C.

¶ A





A brieſe Collection of the
Letter and tearmes of the Law, with their
ſeuerrall Expositions in Engliſh; and of all ſuch que-
ſtions of Tything which be mentioned and contayned
within the body of this Table, whereby every
Tythable thing and queſtion that is moved
and answered of the ſame, is readily found.

The Firſt Queſtion.

Decima De **Frugibus**, i. Of. Harveſt fruites,
ſowne, mowne, reaped, gathered, bound
or looſe in Heape,
ſhocke or ſheafe.

- 1 When they be tythable, and ſuch other
prædiall Tithes, whether it be lawfull to
the owner to diſpoſe any manner of way
of any part of the fruits before diſiſion
be made, and the Tenth part be ſeuered
from the Nine parts?
- 2 If a ſtranger ſhall preſcribe tithes in ano-
ther pariſh, and there ſhall happen after-
wards barren and waſt grounds to be til-
led, whether the ſtranger that preſcri-
beth, or the Church where the grounds
doe lie, ſhall reape the Tithes?
- 3 If one ſhall haue right of tyth in a wood,
and that wood become afterwards arable
ground, whether his right continueth in
the Corne?

Questions of

The second Question.

- Decima De { *Siluis cædvis*, i. Of woods felled,
and preserved to
grow againe.
- Lignis*, i. Of wood not in vse, nor
apt for Timber, but for
fyring.
- Tbenitijs* Of trees planted for
fencing of grounds, in
i. fields, pastures, and
agrorum, hedge-rows.
- Turuis*, i. Of Turues growing in
fennish & moorish soiles
as in the Isle of *Ely*.
- 1 Wood of 20. yeares growth and vpward,
whether it bee tithable or not? And
what of lopping of timber trees?
 - 2 When woods be felled and sold, who shall
answer the tith? the buyer, or the seller?
 - 3 If the inheritance of a wood be sold, that
is in arrearages for tyth, whom the Parson
may implead?
 - 4 Turues, amongst what tythes they be rec-
koned?

The third Question.

- Decima De { *Pasturis*, i. Of pasture grounds.
- 1 If they be fed, how the tith shall be an-
swered?

Tythes and Oblations.

The Fourth Question.

Decima De { *Fenis*, i. Of Hay.

- 1 Hay, of what places? and what Tyth it is?

The Fifth Question.

Decima De { *Lana*, i. Of Wooll.

- 1 Whether the sheepe of Sons and Daughters be tithable (or not) with their fathers flocks wherein they do goe?
2 Where sheepe bee remoued from one Parish to another, how the Tith is divided by rate and proportion of time?
3 If strange sheepe bee brought to another parish and there be clipped or shorn, how they be tithable there?

The Sixth Question.

Decima De { *Agnis*, i. Of Lambe.
Vitalis, i. Of Calues.
Porcellis, i. Of Pigges.
Pullis, i. Of Colts.

- 1 Whether the Parson may expect his Lambe (the next yeare following) if the

parishioners number in any one yeere amounteth not to ten? And what, if he fayleth then?

- 2 When Yeawes be remoued, and other such cattell and beasts from one parish to another, how the severall Churches be interested in the Tyth of their Lambs, and such other increase?
- 3 Of Lambe, calfe, Kid, colt, pigge, &c. and when is their tythable time?

The Senenth Question.

Decima De *Lacte*, i. Of Milke.
Caseo, i. Of Cheefe.

- 1 Milke and Cheefe how? and when they be tythable?
- 2 If Cattell feed in one Parish and couch in another, how the profits be tythed?
- 3 Where Cheefe is tythable, and the number of Cattell so small that none can bee made; how the tyth shall bee answered for their small proportion?
- 4 Where Milke of sheep is tythed in kind, how they be tythable (for their pasture) in the VVinter when they doe yeeld no such profit?

The Eight Question.

Decima De { *Fructibus* i. Of Fruits of Trees.
arborum,
I Of Apples and other such fruits of trees,
what of their tythable time?

The Ninth Question.

Decima De { *Seminibus* i. Of seeds: Hempe,
Herbis i. Of Pot-herbs.
Curtilagijs i. Of places adjoining
to mansion houses,
applied to seeds and
herbs.
I Of Seeds and Hearbes what manner of
tythes they be?

The Tenth Question.

Decima De { *Pannagij* i. Of mast, of Beech,
siluarum, or Oke, or such
like.
I Of Mast, what, when it is given? and
what, when it is sold?

Questions of

The Eleventh Question.

- Decima De { *Molendinis*, i. Of Mills, forced by
wind, water, &c.
Vivarijs, i. Of Parkes, Warrens,
pooles, ponds, &c.
Bestijs guarenarum, i. Of wild beasts
vnder custody
&c.
Columbarijs, i. Of Dove-cotes,
or houses.
Apibus, i. Of Bees.
I What manner of tithes they bee? And
how they be tithable?

The twelfth Question.

- Decima De { *Aucupijs*, i. Of Fowlings.
Venationibus, i. Of Huntings.
Piscationibus, i. Of Fishings.
I Beasts, Fishes, Fowles, how (diversly)
they be tythed, (diversly) considered.

Tythes and Oblations.

The thirteenth Question.

Decima De { *Cignis*, i. Of Swannes.
 { *Aucis*, i. Of Geese.

I Of Swannes, Geese, Ducks, and how they be considered of.

The fourteenth Question.

Decima De { *Ovis*, i. Of Egges.

I Of Egges, where Tythes bee yeilded, whether chickens be tythable there?

The fifteenth Question.

Decima De { *Artificijs*, i. Of Crafts, and manuell Occupations,
 { *Negotiationibus*, i. Of Trades by wares, Marchandise, &c.

I Of personall Tythes, what time, place, and persons, be required in them, and of whom the Church is forbidden to receiue either personall Tyth, or Oblation?

The

The second edition.

Volume I. of 2 parts.

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1. Of the first edition, 1801, 1802, and 1803.

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The First Question.

Decima De *Frugibus*, 1. Of Harvest fruites,
sowne, mowne, reaped, gathered, bound
or loose, in Heape,
shocke or sheafe.

- 1 When they be tithable, and such other
prædiall Tithes, whether it be lawfull to
the owner to dispose any manner of way
of any part of the fruits before division
be made, and the Tenth part be severed
from the Nine parts?
- 2 If a stranger shall prescribe tithes in another
parish, and there shall happen afterwards
barren and wast grounds to be tilled,
whether the stranger that prescribeth, or the
Church where the grounds doe lie, shall reape
the Tithes?
- 3 If one shall haue right of tyth in a wood,
and that wood become afterwards arable
ground, whether his right continueth in
the Corne?

Questions of Tithing, and their Resolutions.

The First Question.

1 **P**risoners out of their Harvest-
fruits, specified vnder the word
Frugibus (before their Tythes
assigned of the same) diminish
their fruits, some one way, some
another: admit to godly or prophane vles: or
C (as

(as their manner hath beene) to the satisfying therein their labourers their wages. The question is, whether this be lawfull? It is answered, A fraud vnto the Church: For this allowance (If any such be) not otherwise ought to be made, than forth of the Ayne parts: and the reason is, Decima debet solui sine diminutione, &c. Tyth must be payd without any diminishing^a.

^a c. Cum homines de decim. Glo. c. erroris dam-nabilis. Const. prou. Ang. de dec. ver. errore calculi.

2 The Parson of the Rectorie of A (iure præscriptionis) i. by right of prescription, hath interest in and to the prediall Tythes of the Parish Church of B, where there bee conuer-
ted (into tillage) diuers barren, heath, and wast grounds, that neuer before yeelded any profit to the Church: The question is, (now) of these Tythes, and which of the Churches shall haue them? It is answered, that the Parish Church of B shall haue these Tythes, because they bee Decimæ noualium, i. Arising of such grounds that neuer were manured nor yeelded before any profit at all to the Church: and the reason is, by the foundation of euery Church, the Tythes in generall of that and ebery Parish, are due to their owne proper and peculiar Church^b. Now, for as much as the Church of A could neuer before be in Possession of the Tythes of these wast grounds, because they neuer were in being^c, and that the Law is, that Tantum præscriptum est, quantum est possessum, & non plus, i. So much (and

^b c. Cum con-tingat. vbi glo. & DD. eod.

^c l. Sine possessione. ff. de usufructu.

(and no more) in prescription, than in possession^d: And again, in that prescription is not extended ad futura, i. It reacheth not vnto profits of tythable grounds to come^e, Summa equitatis est, &c. i. The premisses considered, it standeth with great equity, in this case, that the Church of B should reape & perceiue these tithes^f.

3 But note, it is otherwise where one shall be in possession of the Tyth of Corne, or of Pasture, or of Wood, or of any prediall Tythes whatsoeuer arising in the grounds wherein he prescribeth, howbeit afterwarde there bee planted or set or sown in the same any strange plant, seed, or hearbe, that neuer grew before in these grounds. For example: Millet is sowne or Saffron, where Corne hath bene sowne vsually and euer before, and as the manner is, in some parts of this Land to sow in their Pasture grounds the Hearb that is called Glastum or Isatis, Caesar writeth of the old Brittons that they bled with this Hearbe to smeeare their faces, to the end to seeme terrible to their Enemies in warre: we call it in English woadde or woad. Again, Apples, or Nuts, bee newly planted where neuer they grew before: and so Ex nemoribus, i. Of Woods that be conuerted to arable grounds: the Tythes in all these cases bee payable as before they were of the former fruites, and to whome the former fruites were tythable before, namely, to the Parson or Church

^d l. Quod meo. §. si. ff. de acquir. possel. cap. Auditis de prescripte.

^e Pan in vlt. notabili in d. c. cum contingat.

^f Host. Io. And in d. c. Cum contingat.

that prescribeth, and the reason is, viz. *Præscriptio est realis censenda. i. Terram concernens, non speciem fructuum perceptorum, i.* Prescription is real, that is to say, respecting not the new or neuer tithed fruits, but the tythable grounds that bringeth them forth^a: In respect whereof, that is, of the grounds, the tythes whereof forsoverpassed, haue beene (with- out discontinuance or other interruption) continued and possessed, it is thus affirmed (in these cases) of prescription, viz. *Præscriptio extenditur ad particularitatem iuris apprehensi, sub vnico iure vt vniuersali, i.* Prescription is extended to euery particularity of right apprehended, as it were, vnder that particular, as generall^b. Otherwise it should be in potestate ferentis, i. In the owners power (changing the fruits) to preuent anothers right in the Tythes of his certaine, knowne, and tythable grounds: contrary to the rule of the law, viz. *Id quod nostrum est sine facto nostro a nobis auelli non potest, i.* That which is mine cannot (without my fact) be taken from me^c. Looke the statute *De noualibus, i.* Of barren, heath, and waste ground, 2. Ed. 6. 13. And looke the statute for prediall Tithes, and Tithable places, 2 Ed. 6. 13.

^a Ancha. in
e. Cum in tua
de deci. &
Ant. But. in d.
e. Cum in tua.
sed.

^b Ant. But. in
e. prediall.

^c ff. de reg.
iur.

Tythes and Oblations.

The Second Question.

- Siluis ceduis**, i. Of woods felled, and preserved to grow againe.
- Lignis**, i. Of wood not in vse, nor apt for Timber, but for fying.
- Decima De **Thenitijs**, i. Of trees planted for fencing of grounds, in fields, pastures, and hedge-rows.
- agrorum**, i.
- Turuis**, i. Of Turues growing in fennish & moorish soiles as in the Isle of *Ely*.
- 1 Wood of 20. years growth and vpwards, whether it bee tithable or not? And what of lopping of timber trees?
 - 2 When woods be felled and sold, who shall answer the tith? the buyer, or the seller?
 - 3 If the inheritance of a wood be sold, that is in arrerages for tyth, whom the Parson may implead?
 - 4 Turues, amongst what tythes they be reckoned?

The Second Question.

Of woods and wood, contayned and specified vnder the words *Silvis ceduis*, *Lignis*, *Thenitijs*, *agrorum*, some of them exceed the growth of Twenty yeares, and some of them not felled within the memo-

rie of man, peraduenture not of an Hundreth
or two of yeares: there groweth a question of
such Woods for the Tythes of the same: It
should seeme, the parishioner herein may plead
for the one (against the Parson) the statute of
Silua Cædua, that exempteth wood of Twenty
yeares growth and bpwards, from the pay-
ment of tythes: and (for the other) both the
Statute and prescription, in that the Tythes
therein were neuer performed: interpreting
the Statute no further than the Statute ex-
plaineth it selfe: It is answered by the Ca-
nons alleaged, so farre forth (with protestati-
on) and no further, then the statute shall per-
mit, that wood not in ble nor apt for Timber
is tythable, body or bough, selled or lopped^k.
As for prescription, it is answered, Præscrip-
tio locum habere non potest, vbi illi cui ius
competit agere non potest, cum cesset materia
de qua experiatur, i. Prescription hath no
place, where the interessed (in his right) can
make no demand, the matter ceasing whereb-
pon he should worke: For example, Of wood
neuer cut, the Tith could neuer be demanded^l.
But whether the loppings or bootes of such
trees the which the Common Lawes of the
Realme account timber be tythable or not, is
not yet decided by that Law.

It is a question, when Woods so sel-
led bee sold, who shall answer the Tythes,
the Buyer or the Seller: It is answered,
The

^a c. Quan-
quam. Pro-
uin. ang. eo.
vbi. glo. in
ver. excisis.

^l Gloss. esp.
Sancta eccle-
sia. prouin.
ang. eo. ver.
arborum. ad
hoc l. arbori-
bus ff. de
usufr.

Tythes and Oblations.

The Buyer ^m shall answere the Tyth : and the reason is, Decima sequitur fructus, & cum onere fructuum decimæ transferuntur in alterum, i. Tythe doth follow the fruits, and fruits bee translated into anothers right together with the burthen of Tythes ⁿ.

^m Ext. de decim. c. Pastoralis.

ⁿ c. Pizal. eod.

3 Where the Inheritance of a wood is sold, the Tythes whereof for certaine yeares forpassed, by the Seller hath been detayned and wrongfully subtracted from the Church, It is a question whom the Parson may implead: It is holden, he may implead the one or the other at his owne choyce ^o, but he can recouer but of one ^p. But by the statutes of the Land, the Seller only, in this case, shall bee impleaded and sued unto treble damages, 2 Ed. 6. 13. And not the buyer who tooke not the Tyth away.

^o Pet. de antich. & DD. e. cum homines eod.

^p Ar. ad hoc de re iud. c. Bona fide. li. 6. Glo. pro. uin. Ang. de decim. ver. asportant.

4 De Turvis, i. Of Turues, they be tythable, and comprehended vnder the word Lignis, because they be so applyed, that is, for syring, and reckoned in the number and amongst prebiall Tythes.

^q ff. De leg. 3. l. Ligni § lignorum verb. quid mirum.

Questions of

The Third Question.

Decima De **Pasturis**, i. Of pasture grounds.

i If they be fed, how the tith shall be answered?

The Third Question.

Of Pasture grounds, when they be fed, it is a question how the Tyth shall be answered: It must be considered whose the grounds be, whether the owners of the cattell that fed them, or a strangers of another Parish. In the first case, if the cattell be such that yeeld profit to the Church, the tyth is satisfied in the fruits of the beasts. In the other case, it must be considered of the stranger, whether he selleth or giueth franchly to the owner of the cattell, the pasturage of his grounds: the stranger if he sell it, is answerable for the Tenth Penny: the Parishioner, if freely he receiueth it, is answerable for the estimation. But note, the estimation shall not be answered, but where the grounds with beasts be fed, Nullam Ecclesie viliratem alias, &c. i. Yeelding otherwise no profit at all to the Church, of which sort be Horses, Oxen, and such other barren Beasts. In other profitable cattell, the tyth is intended (as aforesaid) to be

2 Inno ext.
de decim. c.
commiffum.

3 c. Preal cod.

Tythys and Oblations.

be answered in the scattys'. But note, that generally the occupier of the Pasture is to pay the Tyth, and so is the Custom.

¹ Inxt. note.
per Inbo. v.
sup. glo. ver.
diuidenda.
prou. an. co.

The Fourth Question.

Decima De **Fenis**, i. Of Hay.

Hay, of what places? and what Tyth it is?

The Fourth Question.

DE Fenis, i. Of Hay, according to the exposition of the word, the tyth is payable, viz. Of the grasse withered or greene, perceived and taken in Meddow, Pasture, great or small, or in other place, places, or angles (so within the limits of the parish) wheresoeuer: Question hath been moved of this Tythe to this effect, that is to say, whether it be prediall or personall: It is answered to be prediall: For how be it the industry and labour of the person may seeme and be alleaged moze to preuaile (as they tearm it) in the making thereof, then the nature of the ground, yet in that it is perceived of the ground, and gathered of and from a place certayne, in some one or other knowne, certaine, and limited Parish, it is tythable as other pre-

¹ Prou. ang.
c. quoniam
propter \$ vo-
luntus.

² Ancha. cap.
peruenit cod.

7 Ad hoc c.
pastoralis.
ext cod.


Questions of
dial Tythes be^r, that is, to that Parish
Church where the grounds doe lie, without
Deduction of charges.

The Fift Question.

Decima De } *Lana*, i. Of Wooll.

- 1 Whether the sheepe of Sons and Daughters be tithable (or not) with their fathers stocks wherein they do goe?
- 2 Where sheepe bee remoued from one Parish to another, how the Tith is divided by rate and proportion of time?
- 3 If strange sheepe bee brought to another parish and there be clipped or shorn, how they be tithable there?

The Fift Question.

1  If profits and increase of such profitable Beasts before mentioned, and specified in particular vnder the words *Lana Agnis*, question is moued to this effect, There be in one familie diuers persons hauing to the number of 3, 5, 6, 8, or 10 Lambs or fleeces of woll more or lesse, their sheepe be depastured and so be reputed part and parcell of the stocks wherein they walke, couch, and do feed: The question is of their Tythes, whether they be tythable with the stocks, or in their seuerall parcels? It is
answe^r

answered, In their severall parcels, and the reason is, *Animalia quæ gregibus alienis admixta sunt, remanent eorum propria non quorum sunt greges, sed quorum sunt animalia: i. Beasts intermingled with other mens flocks, doe remaine notwithstanding proper and peculiar unto those, not whose be the flocks, but whose be the beasts.* ^{c. 1. Cle. 2.} Howbeit in Countries where persons such as *Sons, & Daughters*, in their Fathers power, gouvernement, maintenance, and finding, shall haue such beasts or cattle intended in Law, and counted in *bonis profectio & aduentio*, i. Accruing and growing by their fathers or friends by the mother side, by gift, procurement, or otherwise, in which beasts their fathers are interested, in the vse and fruits, the bare property remayning to the Children, the tythes of these beasts shall bee reckoned with their fathers ^a, and not in their severall parcels, and the reason is, *Vt ipsarum rerum quæ in fructu sunt & patri adquiruntur, pater soluat decimam, &c. i.* Of things in increase and procured to the father, so shall the father be answerable for the tyth, the property notwithstanding reserved to him or her to whom it belongeth, his son or daughter. But for that *Patria potestas*, i. That legall power and prerogative of fathers is not in vse, neither yet *Profectum* nor *Adventum* peculium are knowne in England, the beasts of *Sonnes and Daughters* here men-

^a Arg. ad hoc ff. per quas personas nobis § 1.

Glou. proli. ang. de dec. ver. decima lanx.

tioned (in respect of their tyth) shall not be reckoned with their fathers cattle, but as the cattle of other strangers: and what is given by the father to the Sonne or to the Daughter, is their own, except the father by expresse wordes shall reserve the fruits of such cattle so given, to himselfe.

a. no here such cattle be removed from Parish to Parish, and question be made what proportion of the tythes is due to each Parish, the custome of the place must be observed: otherwise the law is, viz. Quilibet Ecclesia pro rata temporis portione decimas percipiet, i. Every Church shall receive it tythes by rate and proportion of time: but the question is, of what space this rate and proportion is meant? It is answered, of xxx. dayes, and so to be rated by Christians from Thirtie to Thirtie, *Minori triginta dierum spatio in rata temporis minime comparando, i. Under or lesse then the space of xxx. dayes not to be counted in rate and proportion of time*: for example, The Parishoner hath forty Sheepe which yeeld him at shearing day fourescore Pounds of wooll: that Church is interested intyrelly in the Tyth in whole Parish the whole yeare they couched and depastured: that Church in the halfe, that is, in the tyth of forty pounds where the halfe yeare they couched and depastured: that Church in Twenty pounds where they couched three months and depastured: and so ratably

* Text. pro-
uin. ang. ca.
quoniam vt
audiuimus,
eodem.

tably foure monthes, fiue monthes, more or lesse accordingly: and that Church in whole Parish they couched and depastured but One Month, that is xxx. dayes, but in the tyth of the Twelfth part thereof, that is, of the whole fourescore pounds, but the Tenth of Sixe Pounds and a halfe, and vnder thirty dayes as afore is sayd, no allowance at all. But note, if the whole time they couch in one Parish, and depasture in another, the Tyth shall be diuided.

d. d.c. Ver. fed
fi oves.

* § si vero.
const. presb.

3 If peraduenture they come from a
strange and unknowne place to any Parish
to be clipped or shorn, there the tyth
must bee payd, except it may ap-
peare the same to be satis-
fied to the Church
whence they
came.

15 & 16 over
cont. cad.

The

The Sixt Question.

Decima De

Agnis, i. Of Lambs.

Vitulis, i. Of Calves.

Porcellis, i. Of Pigges.

Pullis, i. Of Colts.

- 1 Whether the Parson may expect his Lambe (the next yeare following) if the parishioners number in any one yeere amounteth not to ten? And what, if he fayleth then?
- 2 When Yeawes be remoued, and other such cattell and beasts from one parish to another, how the severall Churches be interested in the Tyth of their Lambs, and such other increase.
- 3 Of Lambe, calfe, Kid, colt, pigge, &c. and when is their tythable time?

The Sixt Question.

- 1 **I**n Tythes in profitable beasts, the Parson may expect the fall of the Tenth the next yeare following, if the number in any one year amounteth not to Ten, according to the text of the constitution ^s, viz. Vel expectet rector vsque ad alium annum donec plenarie decimum agnum possit recipere, si maluerit: i. **Q** let the Parson (if so he had rather to

^s Text pro-
uin. ang. ca-
noniam
propter de
decim.

to doe) expect another yeare, till hee may fully receive his tenth Lambe. Now it falleth out the Parson bleth his liberty and refuseth his Lambe at leaven, and his halfe pence at Sir, and the Parishioner the yeare following hath neuer a Lamb at all: The question is, how the tyth shall be satisfied? It is answered, (in this case) The Parson hath no remedy in law, and the reason is, à principio male eligendo fuit in culpa, ergo in hoc sibi impuretur, i. He made his choyce but ill at the first, which was his owne default, and therefore he must blame himselfe^b. Yet Lyndwood affirmeth in this case, That in regard of the Church, in respect whereof tythes ought not to be lost, and in regard of the party himselfe, the owner of the fruits, who without sinne cannot detayne by any colour the rights from the Church, though the Parson (for his owne sake) cannot relieue himselfe iure actionis, i. By right of action: yet for the Churches sake Officium Iudicis, i. The Judge his office may be desiredⁱ.

2. Pastors bee sometimes remooved from grounds to grounds, from parish to parish, the question is, (in this case) of the right of their tythes: It is thus answered by the text lato^k. viz. The tyth of Lamb is payable in manner and forme as be the tyths of Calues and colts and such other like tythable increase, mentioned to bee Digge, Kid, &c. of which the Law determineth thus, viz. Habita ratione ad loca diuer-

^b arg. ad hoc
inst. quod
cum eo qui
in alt. pot. §
ceterum au-
tem. & glo.
const. prou.
præl. verb.
possit recipere.

ⁱ c. verb. const.
præl.

^k c. Quoniam
ut audivimus.
const. prouin.
arg. § agni.
cod.

¹ Ca. & §
prz.

^m Glo. c. & §
przal. verb.
particulariter

ⁿ C. & § prz.

^o Rebuff. eo.
q. 6. nn. 30.
Iano. Host. &
alij in ca. cum
homines. cod.

diuersa ubi gignuntur, oriuntur, & nutriuntur, & ad morau quam traxerint in eisdem particulariter docuimus, i. They bee tythable by rate and proportion (particularly) to the severall Churches in whose parishes they were ingendred, brought forth, and nourished¹: for example, The Peare goeth five months with her Lambe, they put them together the Male and female the last of September, where they coupled they remayne one month: they bee removed to a second parish, to a third, to fourth, and to a fift, where they be depastured severall Months: in this case Vnuiquisque pro tempore suo: i. Every Parson for his time^m, that is (the severall times and places considered) the severall Churches in the tythes haue severall rights accordinglyⁿ.

3 And touching the question of their tythable time, it is answered thus, Fetus ablactatus esse debet antequam prestatetur, i. They must be weaned, weanable, or of strength to live without the damme^o, except custome hath obserued therein a time certaine, the which where so it is, there it must be continued. Looke custome the 6.

Tythes and Oblations.

The Seventh Question.

Decima De } **Lacte**, i. Of Milke,

} **Caseo**, i. Of Cheefe.

- 1 Milke and Cheefe how? and when they be tythable?
- 2 If Cattell feed in one Parish and couch in another, how the profits be tythed?
- 3 Where Cheefe is tythable, and the number of Cattell so small that none can bee made; how the tyth shall bee answered for their small proportion?
- 4 Where Milke of sheep is tythed in kind, how they be tythable (for their pasture) in the VVinter when they doe yeeld no such profit?

The Seventh Question.

Milke and Cheefe, viz. of Kine, of Sheep, or of Goats, they be reckoned as In pecudum fructu, i. In the increase of such cattell, as also be Lana & fetus, i. wooll, Calfe, Kid, & Lamb, whereof mention is made in the list and sixt questions befoze: and touching question herein to be made, suppose of the milke when it is perceived & taken, of the ix. parts thereof (when the tenth is deducted) there be made x. cheeses it is answered, in this case, The cheeses are

ff. de usufr.
l. in pecudum.
inst. de re. di.
§ in pecu-
dum.

1 de reg. iur.
in 6.

2 c. quoniam
propter prae-
de decim.

1 c. Quoniam
ut audimus.
praeal. § deci-
ma.

1 c. quoniam
propter. prae-
§ quid verò.

11 in cap. & §
praeal. verb.
modicitatem.

2 c. § praeal.
in fin.

7 ext. c. ti. c.
in aliquibus.

not to be tythed¹: for cheese is not tythable but where milke is not tythed: and so of the other: briefly, they be tythable either of them tempore suo, i. In their seasons², and so long, and so soone, as either Milke or Cheese shall be perceiued and taken (in their kinde) by the Parishioner: there can be no custome of intermission to the contrary. Looke Custome, the 3. And what the Law of custome may bee in this case, followeth here the 3.

2 Sometime these cattell be depastured in one Parish, and couch in another, in this case it may be demanded, what the Law determineth of the tyth? It is answered in the text Law, viz. Quod inter Rectores diuidatur, i. In this case the Parsons shall diuide¹.

3 Question also herein is moued further in Law², where such tythes be payable in kind, and the number of cattell so small as Lyndwood supposeth³ of some one or other Parishioners, which haue but onely three, two, or peraduenture but one only Cow, and those, or that to bee milked but alternis diebus, i. But each other day, by reason whereof the Parishioner can make no cheese at all: what is the Churches right in this case? It is answered in the text Law⁴, viz. Consuetudini locorum duximus relinquendum, i. The custome of the place must be obserued: provided the Custome be, that Certum quid soluatur, i. That somewhat be payd in consideration and lieto⁵

for

for custome herein (as in all other cases of tything) cannot exclude solutionem decimar, i. It cannot intirely take away the payment of the tythes of such profits as arise, as may appeare in custome the 3. Only it may limit Solutionem decimar, i. Custome may moderate the payment of Tythes. Looke custome the 4, Hither (by a Constitution prouinciall of England) also be referred Calfe, Colt, Digge and such like, that is, when their number is so small that they cannot bee tythed: it is the Chapter Quoniam vt audiuimus, and Paragraphe Quid verò, which Constitution Lyndwood affirmeth vpon the same Paragraphe, that it extendeth not to wooll and Lamb, but citeth there another expresse and peculiar ordinance for the same, viz. If the Parishioner shall haue sixe Lambes or vnder, he shall yeeld for his Tyth for euery Lambe a halfe-peny: if seauen Lambes, he shall yeeld a Lambe for his tyth, and receiue thre halfe-pence: if eight, a peny: if nine, the Parishioner (only) receiueth a halfe-peny of the Parson, or the Parson may expect, according to the sixt question before. Et ita intelligendum est de decima Lana. i. The same ordinance and prouinciall constitution is had of wooll. It is the Chapter Quoniam propter, and Paragraphe De nutrimentis, in the title of Tythes.

14 Post Festum, &c, i. after the feast of S. Martin in winter, sheep be eftsoones removed

from parish to parish, or else they doe continue in one and the same parish from that feast till shearing day ensuing: the question is, of their tythes? It is answered, they be tythable thus, viz. *Habua ratione ad numerum ovium Pastua estimetur*, i. The pasture in this case must be considered (for want of their milke in this season) by the head or number of the Sheep that depastured in them, and so shall the tyth be rated and perceded: by rate and proportion of time (by the month^b) as Lyndwood inferreth, and as it is said of thirty daies, and by thirties and so from thirty to thirty, as in the first question before of wood.

^a e. Quoniam
ut audivimus.
pral. § quod
si prou. ang. e.
^a c. § pr. c.
^b Gloss. c. §
pral. ver.
estimetur.

The Eight Question.

Decima De **Fructibus arborum**, i. Of Fruits of Trees.
1. Of Apples and other such fruits of trees, what of their tythable time?

The Eight Question.

Rruits of trees, viz. Apples, pears, nardens, &c. the question is of their tythable time: it is answered, *Statim fructibus collectis*, i. So soone and immediatly when the fruites shall

Tithes and Oblations.

shall be gathered^e, and the reason is, *Quia minus soluit, qui tardius soluit*, i. Hee diminisheth his duty that delayeth the time^e: if therefore the Parishioner shall gather his tithes, and neither pay the Tythes presently, nor monethly the parson to receiue them, but subtract them, or that (otherwise) they bee impaired or lost, tenebitur, saith the Law; that is, The Parishioner is bounden^e: to what satisfaction looke the Statute 2. Ed. 6. 13. for fruits be Tythable, and prediall^e.

^e c. cum homines, eod.

^d l. si cui in fine ff. de verb. sig.

^e c. cum homines pra. eod. text.

^e c. i. c. ad Apostolic. c. peruenit eod.

Questions of

The Ninth Question.

Seminibus, i. Of seeds: Hempe,
Flax, Onions, Rape,
and such like.

Decima De **Herbis**, i. Of Pot-herbs.

Curtilagijs, i. Of places adioining
to mansion houses,
applied to seeds and
herbs.

I Of Seeds and Hearbes what manner of
tythes they be?

The Nynth Question.

I **S**Eds and hearbs, viz. of flaxe,
Millet, Hempe, Lecke, Onion,
Rape, Percely, Sage, Mint,
Rue, &c. comprehended vnder
the words **Seminibus**, **Herbis**,

^e c. quoniam
propter præ.
prou. ang. c.

^b Concor. ext.
eo. c. ex parte
canonicorum.

ⁱ c. quoniam
propter præ.

^k Lu. 11. Ho.
c. ex multipli-
ci. co.

Curtilagijs, they be Tythable ^e, as they be per-
ceined and taken in Gardens, or in the fieldg,
either of the seed, or of the hearb before the see-
ding time ^h, Nisi parochiani competentem fece-
rint redemptionem, i. Except the parishioners
sufficiently shall redeeme or compound for the
same ⁱ: these be Minutæ decimæ, i. Smal tiths
according to the Euangelist ^k, vz. Ye tyth mint
and Rue, &c. and therefore in them no great
question to be made.

The

Tythes and Oblutions.

The Tenth Question.

Decima De } *Pannagij* 1. Of mast, of Beech,
siluarum, or Oke, or such
 like.
 I Of Mast, what, when it is given? and
 what, when it is sold?

The Tenth Question.

I **B** *P* the Chapter Sancta Ecclesia, in
 the provinciall Constitutions of
 England, and tytle of Tythes, the
 tyth of Mast and of other such
 wood and wild fruits, be payable, viz. Si ven-
 dantur, i. If they bee sold¹: that is, (as the
 glosse inferreth) of the tenth penny, if they bee
 sold; otherwise, that is, if Swine franchely
 and freely receined and fed, without conside-
 ration of charges to the owner, in this case,
 Transfunt fructus cum onere, i. The fruits do
 passe with their charges², viz. with the bur-
 then of Tythes.

¹ c. Sancta
 ecclesia pre.

² glo. in d. c.
 verb. si ven-
 dantur. vbi ad
 hoc ext. co. c.
 pastoralis, &
 Inno ext. c.
 commissum. c.

E 4.

The

Questions of

The Eleventh Question.

Molendinis, i. Of Mills, forced by
wind, water, &c.

Vivarijs, i. Of Parkes, Warrens,
pooles, ponds, &c.

Decima De *Bestijs guare-* Of wild beasts
narum, i. vnder custody
&c.

Columbarijs, i. Of Doue-cotes,
or houses.

Apibus, i. Of Bees.

I What manner of tithes they bee? And
how they be tithable?

The Eleventh Question.

I **Q**uestion hath beene moued of the
tyths of Mills, Parks, Ponds,
Warrens, Doue-houses, and
Bees, to this effect, viz. whe-
ther they bee prediall, or perso-

nal? it is answered, They bee prediall, and
tythable without deduction of charges*, for
the reason alleaged in the fourth Question be-
fore. And they bee tythable thus; that is to
say, not the Tenth of the rent for milles (as
they tearme it) the tenth peny, nor for Bees,
the Tenth Bee, or Swarme, or Hie,
but De prouentibus molendinorum, i. The
tenth measure of Coyne for Milles*, and so
for

* DD. in cap.
pastoralis, &
alii ca. cod.

* c. quoniam
propter, pre.
§ de prouen-
tibus. & ibi
glo. verb. in-
tigrè.

Tythes and Oblations.

for Bees, the tenth measure of Honey, the tenth waight of waxe, briefly, De cera & melle, i. Of Honie, and waxe^r. And the law and reason is of these tythes, especially of Milles, as of other mediall tythes, whereof (for example) it is sayd; Transit herba pasta cum onere suo ad dominum bestiarum, i. where grounds or pastures be demised, or their Herbages sold, the owner of the beasts is chargeable with the tyth^s. Especially for the practise of England, looke what is sayd in the Third Question before. Hither be referred Parks, Ponds, Dove-houses, &c. for Fructus transit cum onere suo, i. fruits be lyable to their charges. Look in the Second Question before, 2.

^r Host. & alij.
c. nuntios, c.

^s Ad hec. ff.
de usufr. l. usufr.
fructu legato.
& l. item si
fundi.

The Twelfth Question.

Decima De **A**ucupijs, i. Of Fowlings.
Venationibus, i. Of Huntings.
Piscationibus, i. Of Fishings.

i Beasts, Fishes, Fowles, how (diversly) they be tythed, (diversly) considered.

The Twelfth Question.

i **T**he profits that be mentioned and contained under the words Aucupijs, Venationibus, Piscationibus, i. Of fowlings, Huntings, fishings, question hath been moued of the tythes of the
f same,

same, viz. The Parishioners of A. one of them
 soweth, another hunteth, the third fisheth, in
 the fields, grounds, and Rivers of B, the que-
 stion is of the tythes, of their aduantages ta-
 ken, and which of the Churches bee interested
 in the same, vz. whether the Church of A,
 where the parishioners inhabite, or the Church
 of B, where the profits were taken? It is thus
 answered, vz. If the Parishioner had of the
 owners of the places francke and free liberty
 to sow, hunt, and fish, the Church of A. that
 is, their owne parish Church shall bee intirely
 interested in them, as in personall tythes: but
 if any consideration be required, either in mo-
 ney or in part of their gayne, that profit onely
 receiued by the owner, is prediall and tythable
 to the Church of B. that is to say, in that pa-
 rish where the fields, grounds, and Rivers do
 lye. De cæteris verò, i. Of the residue, that
 is to say, of the cleere gayne of these Beasts,
 fishes, and fowles, all charges and expences,
 in, about, belonging, and concerning these pro-
 fits taken, deducted, the Parishioners that
 tooke them be chargeable withall to their pa-
 rish Church of A, mentioned before: and the
 reason is, the Fowles, Beasts, and Fishes be
 taken artificio, ministerio, & opere hominis, i.
 By the art onely, labour, and industry of man,
 from whence proceedeth personall tythes, payable
 onely where the parishioners inhabit.
 7. But if the consideration mentioned here, re-
 quired

* Inno. in ca.
 non est, cod.
 & ibi Host.
 verb. de vena-
 tione.

* Inno. in &
 Host. cap &
 verb. præal.

* DD. præal.
 in ca. pastora-
 lis, cod.

* DD. in d. c.
 Non est ibi i-
 dem not per
 DD. præ. in
 decimis a-
 vium & fera-
 rum gloss. in
 præ. c. quoni-
 am propter
 de piscationi-
 bus prouin.
 ang. cod.
 verb. debito
 modo.

* c. ad aposto-
 licæ. cod.

* c. quæstii. 16.
 q. 1.

quered and taken by the owners, commeth not
by art, or industry, but Ex humo, i. By way on-
ly, and meanes of the ground², from whence
do arise all prediall Tythes³: payable on-
ly in the place and parishes within whose
bounds and limits they are⁴. Thus they bee
diuers, these tythes, diuersly respected, that
is to say, prediall or personall; note the diffe-
rence. Note also, that where such tythes bee
demanded, it is where such art, industry, and
trauell is answered and rewarded, not with
pleasure⁵, but with profit⁶. Question hath
further been mooued of these profits and ad-
uantages aforesayd, to this effect: viz. The
parishioners mentioned of A, had franke and
free leaue and liberty to hunt, fish, and fowle
within the fields, grounds, medowes, riuers,
and running streames of B mentioned before:
they tooke, prelerued, and reserued aloue their
beasts, fowles, and fishes, and so they conuaide
them to certain their owne proper and priuate
grounds, within the bounds, compasse, and li-
mits of another parish, than either of A where
they dwell, or of B where they tooke them:
they include them (there) these beasts, fowles,
and fishes, and compasse them within Parks,
warrens, ponds, pooles, Houses, such as bee
mentioned & comprehended vnder the words
Vivarijs, Columbarijs, in the Eleuenth questi-
on before. Thus they feed and nourish them,
and they breed, and increase in their kinds:

² Inno. Hoff.
in c. non est
przal. eod.
verb. de vena-
tione.

³ c. 1. c. ad a-
postolice. c.
peruenit. pral.
cod.

⁴ cap. fin. de
parochijs.

⁵ Rebuff. eo.
q. 8. nu. 17.

⁶ Ancha. in
przal. c. non
est. eo. col. 2.

^e Rebuff. co.
nu. 14. & 15.
ad hec Inno.
& Pan. in d.
c. non est.

^f Inno. &
Host. in d. c.
non est.

^g DD. præ. in
d. c. non est.

^h Pan. in cap.
præl. & ibi
An. de intel-
lectu Hostien-
sis ad idem.

ⁱ Pan. & DD.
in d. c. non est.

^j Host. in ca.
præl.

now, in that these inclosed and limited places
do alter and change (in law) the nature of the
profits of the nourished Creatures within
them^e; which of the Churches haue right to
the Tythes? It is thus answered, viz: They
were included at the first as they were taken,
that is, by art and industry of man^f: howbe-
it they increase not by industry and art, but by
the nutriment and nourishment of the waters
and ground, where they liue ex sola gratia
Dei, i. Of the meere grace & bounty of God^g:
and therefore for the rate, value, and proporti-
on of themselves, they remaine these profits as
they were taken at the first, that is, personall:
Tythable to the Church of their Parish that
tooke them^h. But their increase is predi-
all, Tythable to the Church within whose ly-
mits they be, and be fed, and nourishedⁱ. The
circumstances of these tiths mentioned in these
cases, according to that worthy and of famous
memory Hostiensis, doe make them neither
meerely prediall, nor meerely personall, but
mixt Tythes^k: payable notwithstanding as
prediall and personall diuersly respected as a-
foresayd. So, consider thus (briefly) of these
Tythes, that is to say, considered as they be
included within compasse, limits, and boundes
(from their naturall liberty) tyed and restray-
ned to the same, as in ponds, parks, warrens,
houses, and in such like lymited places, they
be prediall Tythes: but considered as they
enjoy

chior (at their will) their naturall liberties,
as Fishes, the Sea, Fowles, the Ayre, and
Beasts, the fields; in that they are not re-
honed of any place certayne, their Tythes be
not prediall but personall: touching thesede
question herein to be made, to what Church
they be due. It is answered, as of prediall
and personall Tythes: that is, the one to that
Church in whose Parish these lymped places
aforesayd do lie that doe make them prediall;
the other to that Church in whose parish the
Person doth inhabit that maketh them per-
sonall. And this is the difference.

The Thirteenth Question.

Decima De

Cignis, i. Of Swannes.
Aucis, i. Of Geese.

I Of Swannes, Geese, Ducks, &c. how
they be considered of.

The Thirteenth Question.

Swannes, Geese, and Ducks, bee
distinguished thus, viz. whether
they bee Volantes, i. whether they
be wild and doe flye, or be tame, or not: this
considered, the profits be tythable according-
ly: for example, The Cygnets, Si nascuntur
in loco certo, & suscipiuntur a loco certo, i.

¹ Gloss. in c.
sancta Eccle-
sia prae. § 1.
ver cignorum

² DD. ext c.
cit. c. non est.

If they be brought forth and so be taken in and from a certaine and knowne place, they be presdiall and tythable as presdiall tythes: if from uncertaine places, they be personall, and so they be tythable, viz. as personall Tythes¹. It is affirmed of them, as of beasts, fowles, fishes², in the question last before. Hither by the chapter Sancta Ecclesia, in the Provincials of England, be referred Geese and Ducks.

The Fourteenth Question.

Decima De **Ovis**, i. Of Egges.

I. Of Egges, where Tythes bee yeilded, whether chickens be tythable there?

The Fourteenth Question.

I **D**E Ovis, i. Of Egges, it hath been moued whether they bee tythable in such places where tyths be peyled of Chickens? By the witten law it may be answered, as of milke & Cheese in the Seuenth Question before, the 1. Howbeit Custome in this case preuaileth, as experience sheweth in some parts of this Land³.

³ Gloss. in d.
c. sancta eccle-
sia. cap. quo-
niam vt audi-
vimus ver.
pulli.

Tythes and Oblations.

The Fifteenth Question.

Decima De **A**rtificijs, i. Of Crafts, and manuell Occupations.
Negotiationibus, i. Of Trades by wares, Marchandise, &c.

- 1 Of personall Tythes, what time, place, and persons, be required in them, and of whom the Church is forbidden to receive either personall Tyth, or Oblation?

The Fifteenth Question.

1 **T**rades, Crafts, and Manuall Occupations, they be personall, and of the profits do arise meete personall tythes: touching therfore first their Tythable place, it is answered in the Twelwe question before. Of their Tythable time, it is answered in fine anni, i. They bee payable at the end of the yeare^o, and as our custome is, at Easter. Of persons that be chargable with these personall Tythes, it is answered of such persons, which of Custome haue, or of right ought to haue payde their personall Tythes^o. Looke the Summaries of the Statutes ensuing. There are of these personall Tythes (in diuers cases) Opinionum conflictus, i. Diuersties of opinions^o: but herein they agree, viz. Hæ Decimæ personales, magis in difficultate, & subtilitate,

Gloss. in a.
reuerimini.
verb. annus

2. Ed. 6. 13.

1. Rebuff. q.
13. nu. 44. &
ibid. cit. But. in
c. parochianos.

in fin. eod.

† Host. in ca.
pastoralis in
fin. cod. & 10.
de tur. cre. in
c. reuertimini
proal. nu. 12.
ver. ad septi-
mum. 16. q. 1.

† Host. in. ca.
ex transmissa.
cod. arg. ca.
Oblationes.
90. dist. Deut.
23.
† c. miror. 17.
q. 4.

o c. si tantum
6. q. 2. hec
Rebuff. q. 5.
nu. 18. & 19.

quàm vtilitate consistunt, i. They are, these
personall Tythes, more intricate then profita-
ble : onely this (to conclude) must bee noted,
that is to say, all persons (consideration had
as afore is sayd) be bounden to offer their per-
sonall Tythes to the Church, but the Church
is forbidden (of all persons) to receiue them :
for example, The Harlot, the Robber, the U-
surer, &c. they be not exempted, but the Law
reiecteth them, their personall Tythes, and
Oblations : Non inferas mercedem meretri-
cis, &c. i. Thou shalt not bring the hire of an
whore, nor the pice of a Dog into the House
of the LORD. And for the other, Quæstus
fit ex peccato, i. Their gaine ariseth of sinne:
the Church is therefore forbidden to receiue
of them, Ne ipsorum videatur appro-

bare turpitudinem, i. Least the
Church should seeme
to approue their
Iniquities.

(***)

¶ Heere doe end the Questions of Ty-
thing, moved (in times past) and answered:
and which be new urged (ordinarily) and decided at
this day.

Of

**Of Composition, Transaction,
Custome, Prescription, Privilege, and how
they prevaile in Tything.**

¶ Of Composition.

Composition (by the Canon lawes)
holdeth, or saileth diuersly respec-
ted: and it is first to be conside-
red of as it hath beene made and
had inter Clericos, i. Betwixt
Clerks themselves; and then it hath tended
either *Transferendis decimis*. To the transla-
ting of Tythes from one Church to another:
*Vt quæ vni Ecclesiæ decimæ debentur, alia reci-
pian*, i. That one Church receiue Tythes which
had due to another. And the Composition here-
in holdeth, and the reason is, *Non refert
quæ Ecclesiæ decimas habeat, modo Ecclesiæ
persequantur*, i. It forceth not of Tythes (to
the Church enioieth them) what Church recei-
ueth them. Sombeit, the nature and kind of
the Tythes thus translated, must bee conside-
red, namely, whether they be personall or pre-
diall Tythes; if they be personall, the Composi-
tion

c. 3. d. trans.
c. dilecti. co.

c. 3. cod.

Of Composition.

sition that translated them holdeth not, and the reason is, Ne occasio tribuatur avagandi & diuina extra parochiam audiendi, i. Least occasion should be giuen to the people of wandring, and hearing of Diuine Seruice from their owne Parish Churches.

^{c. 3. sup. ti. 1.}
Rebuff. in q.
13. nu. 17. de
decim.

2 If they be prebiall, the Composition holdeth, Inita cum autoritate Episcopi, i. The authority and approbation of the Bishop of the Diocesse thereunto had; which composition shall bind both the Clerke & his successors: otherwise without the Bishops confirmation, it shall not onely bind the Clerke that yielded thereunto, and not touch his successors at all.

^{c. 2. & c. veniens. 8.}
præl.

3 Of the Composition hath tended Remittendis decimis, i. To the remitting of Tithes, Vt tota decima clerico remittatur, namely, That to a Clerke Tithes should be intirely remitted, this composition holdeth not, and the reason is, Decima omnia non potest, i. Tith may not wholly be taken away.

^{Rebuff. q. 13.}
nu. 27. de decim.

^{c. q. nu. præl.}
Rebuff.

4 Secondly, composition must be considered, as it hath been sayd, inter Laicos & Rectorum, i. Betwixt Laymen and Clerks, which composition also must be respected thus, namely, whether it be De præteritis decimis, i. Of Tithes forepassed, or de futuris decimis, i. Of Tithes to come. In the first case, this composition also holdeth, yea though it be Grama, i. without consideration or allowance at all: In the second case if the composition be, Vt reliquas

^{c. super. de reb. eccle. non alien.}

liquas decimas non soluant, i. That tythes bee
not payd at all. Non est admittenda, i. Not to
be admitted. If the composition be, & c. inte-
gra decima non soluantur, i. That tyth bee not
wholly payd, but in part, it holdeth: howbeit
not otherwise but confirmed by authority
supreame: for the Bishops confirmation here
in suffreth not, for none could exempt from ty-
thing, nor diminish the quantity of the same;
but the Supreame power, as it followeth in
Privilege.

¹ Rebuff. q. 13
pral.

² Text. In ca.
venerabilis
de consens. &
ibi Pan.

Of Transaction.

TRANSACTION and Composition doe
differ in this: the one is Gratiua
conuentio, i. A voluntary, franke
and free agreement of things not
contended for, which is said to be composition:
the other, De re dubia & lite incerta (aliquo da-
to vel retento) pactio, i. A forced couenant or a-
greement (for some what giuen or receiued) of
things litigious, uncertain, and doubtful in
controuersie.

¹ ff. de trans.
C. c. c. super
co.

It must be considered of Transaction, as
before it hath been sayd of Composition be-
twixt Lay-men and Clerks. What Composi-
tion & Transaction (if it be of Tythes fore-
passed) holdeth; yea though the consideration

had, be of things intere temporall: and the
 reason is. *Fundus decimarum sunt temporales, i.*
 The profit and fruits of tythes be reputed tem-
 porall. *¶* Transaction, if it be of tythes to
 come, must be respected according to the time
 and terme it is made for, namely, whether it be
 made in *tempus modicum*, i. for a short and
 limited tyme, or in *perpetuum*, i. (without limi-
 tation) for ever. In the first case it holdeth
 with the Bishops approbation and authority.
 in the other case it holdeth also if the right and
 interest of the Church be doubtfull, as where
 the Parishioner pleadeth against the Church,
 Exemption or Privilege. But where the right
 of the Church is Liquidum, i. where the
 Churches right is cleere, Transaction hol-
 deth not, otherwise than by consent and autho-
 rity supreme. Transaction is often taken
 for Composition, and one for another.

¶ c. vestra de
 loca.

¶ Arg. c. 2. &
 3. sup. de hys
 quantitat. 2.
 capit.

¶ Not. ca. 2
 nobis, cod.
 Pan. c. statui-
 mus de trans.

¶ c. veniens c.

Of Custome.

Custome by the Canon Lawes hol-
 deth or sayleth, diuersly respected:
 if it be *De transferendis decimis pre-*
dialibus, i. Of translating of tythes
 prediall (as afore hath been spoken in Compo-
 sition) it holdeth.

2. If of personall tythes, as also before hath
 been sayd in composition, it holdeth not.

¶ c. cum sint
 homines. & c.
 ad apostolic.
 cod.

¶ c. prael.

Of Custome.

3 Custome De non soluendis decimis, i. Of not peelding of Tythes at all, holdeth not, and the reason is: Iuri naturæ & divino contraria est, i. Such a custome is contrary both to the Law of Nature, and the Law of G D D^s.

1 DD. in c. si.
de consuetud.

4 Custome De minori quantitate solvenda, i. Of peelding lesse than the Tenth in quantity, holdeth in Personalibus, l. In personall tithes only after the opinions of some^r, but of others in prediall also^r; and practise also sheweth the same.

1 c. in aliquibus.
& ibi inno
pan & alij
cod.

1 Rebuff. q.
13. nu. 4. 6.

5 Custome De loco, i. Of place whers Tythes ought to be left, holdeth^r.

1 Host. in sum
5 fin. cod.

6 Custome De tempore, i. Of the time of Tythes to be peelded, holdeth^r.

1 DD. in c. ad
apostolicæ
præl.

7 Custome De modo, i. Of the manner and foyme of peelding of Tythes, holdeth^r.

1 Rebuff. q. 13.
præl. nu. 40.
50. 52.

THE UNIVERSITY OF CHICAGO

grow partly by the grounds, and partly by the

THE TYTH WHAT IT IS, AND OF

how many sorts.



Yth of the *Latine Decl-*
ma. Is a Tenth part of
portion, of increas
commanded vnto Mo-
ses by whom it was de-
livered (at the appoint-
ment of G O D) to bee
payd to the Sonnes of
Leui, for their Ministe-

rie wherein they served in the Tabernacle^a: in Law defined thus: viz. *Quorum bonorum licite quasitorum quota pars Deo assigna constitutione debita*, i. Of all lawfull increase and gaine a certaine part (by constitution divine) due, and appertayning to God^b. And they be either prediall, as that which doth arise and grow by reason and vertue of the grounds, viz. Fruits, and increase of Beasts, Fishes, Fowles &c. Or they be personall, as that which ariseth by reason and vertue of lawfull and honest commoditie, so recovered & procured by art, science, or manuell Occupation of some person^d. It is also to be noted, that tiths, some of them comprehended vnder these titles,

G 4

Prediall

2000-01-01

-၁၈၇၇ ခုနှစ်
 -၁၈၇၈ ခုနှစ်
 -၁၈၇၉ ခုနှစ်
 -၁၈၈၀ ခုနှစ်
 -၁၈၈၁ ခုနှစ်
 -၁၈၈၂ ခုနှစ်

• No. 618. 7

Cardinal
26. pro ev-
dentia et
c. fin. eod.

c. pervenit.
prax. co. c.
non est. 23. c.

^d c. ad spolio-
lice. prae.

Tyth what it is, &c.

Prediall and Personall, be called by the name of mixt tythes, of which sort be such as do rise and grow partly by the grounds*, and partly by the care, keeping, labour and industry of some person; as of Cartell subject to the Fox, Woolfe, and such devouring beasts, supposed to be partly of the grounds where they be bred and fed*, given as a tree is supposed to be also partly of that place where the roots do grow, by the which it is nourished*. So they be maintained by the grounds, but defended by the shepheards. Looke more of mixt tythes in the Twelfth Question. Some of by the name of Greater Tythes, In Latine *Majores sive grossa Decima* (as we termethem) Great tythes: such be of Corne and Pulse*. Some of them be termed *Minores* or *Minuta decima* (in our common speech) Small tithes, such be seeds, Herbs, Egges, &c. mentioned in the ninth & fourteenth questions.

* ca. commissum prael.
* apostolice.
c. pastoralis.
cod.

* l. cum quidam ff. de fun. instruct.
* l. si plures. in fin. ff. arb. furt. cal.

* e. ex multiplici de dec.

* Glo. & DD. in c. cum ex quo & c. ex multiplici prael. cod.

* in c. cum ex quo & c. ex multiplici prael. cod.

* in c. cum ex quo & c. ex multiplici prael. cod.

of them be termed *Minores* or *Minuta decima* (in our common speech) Small tithes, such be seeds, Herbs, Egges, &c. mentioned in the ninth & fourteenth questions. (**) It is also to be noted, that this of it be comprehended under this title of Prediall

Of Prescription.

Prescription is not much differing from Custome, as before is specified of Transaction and Composition: but the one oftentimes is taken for the other ^a. Howbeit herein they differ, Consuetudo proprie dicitur quando ius acquiritur in communi & publico, i. It is properly sayd to be Custome where a right to many is procured in common and publike. Prescriptio vero quando priuato, i. Prescription when priuate ly to one ^b.

^a Dom. ca. 2.
col. vlt. de
preb. in 6.
barb. consil.
35. sapienter,
col. 6. in 2.

^b Pan. in ca.
cum ecclesia.
col. 8. nu. 45.
de caus. pos.

Of Privilege.

PRIVILEGE or Exemption is de-riued from authority Supream, by the which ex iusta causa, i. vpon cause and good consideration, sometimes the persons themselves, as the order called Cistercienses, and other Religious persons were privileged and exempted from Tythes ^c; sometimes the places, as grounds belonging to Religious persons ^d. For example, Monasteries, Priors, Nunries, Colledges, &c. or other Ecclesiasticall houses, &c. or any Manors, Mesuages,

^c c. a nobis de
decim.

^d c. ex parte
cod.

Tyth what it is, &c.

Prediall and Personall, be called by the name of mixt tythes, of which sort be such as do rise and grow partly by the grounds*, and partly by the care, keeping, labour and industry of some person†; as of Cattell subiect to the Fox, Woolfe, and such devouring beasts, supposed to be partly of the grounds where they be bred and fed‡, even as a tree is supposed to be also partly of that place where the roots do grow, by the which it is nourished§. So they be maintained by the grounds, but defended by the shepheards. Looke more of mixt tythes in the Twelſe Question. Some of by the name of Greater Tythes, In Latine *Majores ſive groſſe Decima* (as we termethem) Great tythes: ſuch be of Corne and Pulſe¶. Some

of them be termed *Minores* or *Minuta*

decima (in our common ſpeech)

Small tythes, ſuch be ſeeds,

Herbs, Egges, &c.

mentioned in the

ninth & four-

teenth que-

ſtions, ¶

(*)

* ca. commif-

ſum præl.

† c. apoſtolice.

c. paſtoralis.

cod.

§ l. cum qui-

dam ſi. de ſun.

inſtruct.

¶ l. ſi plures.

in ſi. ff. arb.

ſurt. c. 21.

¶ c. ex multi-

plici de deci-

* Glo. & DD.

in c. cum ex

am. & c. ex

multiplici.

præl. cod.

¶ l. cum qui-

dam ſi. de ſun.

inſtruct.

¶ l. ſi plures.

in ſi. ff. arb.

ſurt. c. 21.

¶ c. ex multi-

plici de deci-

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communi & publico, i. It is properly sayd to be Custome where a right to many is procured in common and publike. *Prescriptio vero*
quando priuato, i. Prescription when priuate-
 ly to one ^b.

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 col. vlt. de
 preb. in 6.
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^b Pan. in ca.
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 col. 8. nu. 45.
 de caus. pos.

Of Privilege.

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 themselves, as the order called Cisterciens,es,
 and other Religious persons were privileged
 and exempted from Tythes ^c; sometimes the
 places, as grounds belonging to Religious
 persons ^d. For example, Monasteries, Prio-
 ries, Nunneries, Colledges, &c. or other Eccle-
 siasticall houses, &c. or any Manors, Mesua-
 ges,

^c c. a nobis de
 decim.

^d c. ex parte
 cod.

Of Privilege.

ges, Parsonages appropriat, &c. or other Hereditaments which belonged vnto the sayd monasteries, priories, &c. which were discharged of and for the payment of Tythes, being in the hands of Abbots, Priors, or other Ecclesiasticall gouernors. Concerning these possessions

in Religious persons, there hath beene

five seuerall times obserued *: but lea-

uing those times I referre the

Readers only to the statute

viz. These Monaste-

ries, &c. and eue-

ry person and

persons,

their Heires and Assignes, hauing &c.

shall be according to their estates and

titles discharged of payment of

tyths, in as ample maner

as any of the said Ab-

bots, &c. at the

daies of their

dissolution.

31. H. 8.

13.

* *

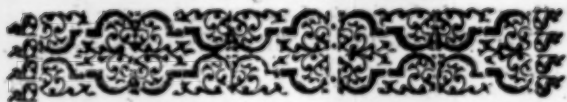
*

* Rebuff. q.

24. m. 37. 38.

39. 40. 41.

¶ Sum-



Summaries of the Statutes of Tything.

Every of the Kings Subiects shall truly and iustly without fraud or guile divide, set out, yeeld & pay all manner of their Prædiall Tythes, in their proper kind, as they rise and happen in such manner and forme as hath been of right yeelded & paid within xl. years before the making of this Act (being 4. Novem. An. 1548) or of right or custome ought to haue been payd. And no person shall take or carry away any such or like Tythes, &c. before he hath iustly set forth for the Tyth thereof the tenth part of the same, or otherwise agreed for the same tythes with the Parson, &c. vnder the paine of forfeiture of treble value of the tythes so taken or carried away. 2. Ed. 6. 13.

At all times whensoever the sayd prædiall tyths shall be due at the tything time of the same, it shall be lawfull to every party to whome any of them ought to be payd, or his Deputy or servant to see their said tyth to be truly set forth, and severed from the nine parts, and the same quietly to take and carry away, 2. Ed. 6. 13.

If any person carry away his Corne or Hay,

Double the
value of the
tenth, besides
costs,

Summaries of the

or his other prædiall tyths, before tyth therof be set forth, or willingly withdraw his tyths of the same, or of such other things wherof prædiall tiths ought to be payd; or doe stop or let the Parson, Vicar, &c. or other their Deputies, to view, take and carry away their tythes, by reason whereof their sayd tyth or tenth is lost or hurt: then vpon due prooffe thereof, &c. the party so carrying away, &c. shall pay the double value of the tenth, &c. besides the costs, charges, and expenses of the suit in the same, &c. to be recovered before the Ecclesiasticall Iudge, according to the Kings Ecclesiasticall Lawes. 2. Ed. 6. 13.

waist ground
not certain=
ly known of
what parish.

Every person which shall haue any beasts or o. ther Cattell tythable, going or feeding in any waist or common ground, whereof the parish is not certaynly knowne, shall pay his tithes for the increase of the sayd Cattell, to the Parson, Vicar, &c. of the parish, Hamlet, Towne, or other place where the owner of the said Cattell dwelleth. 2. Ed. 6. 13.

waist ground
improued
that neuer
payd Tith.

All such barren heath and waist ground, &c. which before this time hath been barren and paid no tythes, by reason of such barrennes, and shall be improued and converted into arable ground or Medow, shal after the end of 7. years next after such improuement, pay tyth for the Corne and Hay growing vpon the same. But if such barren, &c. hath before, &c. been charged with the payment of any tythes, and the same be after improved & converted into arable ground or medow, then

then the owner thereof shall, during 7. years next following, from & after the same improvement, pay such kynd of Tyth as was payd for the same before the same improvement. 2. Ed. 6. 13.

Great Wood of the age of 20. yeares or of *Silva cadua*. greater age sold to Marchants to their owne profit, or in ayd of the King in his Warres, is not Tythable nor comprehended vnder this word *Silva Cadua*. 45. Ed. 3. 3.

Every person exercising Marchandise, bargayning and selling, &c. or other art or faculty, being such kind of persons and in such places as heretofore within these Forty yeares haue accustomedly vsed to pay such personall Tythes, or of right ought to pay (other than such as be common day-labourers) shall yearly, &c. pay for his personall Tyths, the Tenth part of his cleare gaynes, his charges and expences, &c. deducted. But in all such places where handicrafts men haue vsed to pay their tyths, &c. the same custome of payment of tyths shall be observed and continued. 2. Ed. 6. 13.

Personall
Tythes.

Every person which ought to pay offerings, shall (yearly) truly pay them to the Parson, Vicar, &c. at such foure offering dayes, &c. as haue been accustomed for the payment of the same, and in default thereof to pay for the sayd offerings at Easter then next following. 2. Ed. 6. 13.

Offerings:

No tyths of marriage goods shall be required of any person within *Wales*, or the Marches thereof. Neither shall any person bee compelled to pay

Wales.

Summaries of the &c.

Tyth for the lands or hereditaments, which by the lawes and statutes of this Realme, or by any Privilege, or Prescription, are not chargeable with the payment thereof: or that be discharged by Composition reall. 2. Ed. 6. 13.

Obstinacie.

If any person after sentence definitive giuen against him, obstinately refuse to pay his tythes, or shall otherwise contemne and disobey the processe and decrees of the *Ecclesiasticall* Courts, &c. then vpon information giuen, &c. the same party shall be committed to ward, &c. 27. H. 8. 20. Looke the statute in all.

Appeales.

If any of the parties doe appeale, &c. then the Iudge forthwith shall adiudge to the other party the reasonable costs of his suit therein before expended, and take surety of the other party, &c. to what effect, see the statute in all. 32. H. 8. 7.

Prohibition.

If any party, &c. do sue for any prohibition, &c. vnder the copy of the Libell shall be written the suggestion, wherfore the party so demandeth the the sayd Prohibition: & in case the sayd suggestion by two honest and sufficient witnesses at the lest, be not proved true in the court wher the said prohibition shall be so granted, within 6. months next following, &c. Then the party that's hindred of his suit in the *Ecclesiasticall* court by such prohibition, &c. shal haue a consultation granted, &c. and shall also recouer double costs & damages. 2. Ed. 6. 13. And the Iudges before whom the cause was first brought in question, shall proceed notwithstanding the Kings Prohibition. 24. Ed. 1.

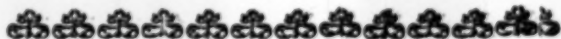
Consultation.

¶ These



✻ These be Summarily (Christian Reader)
the spirituall and statute Lawes of the Land
for Tything: such as bee exercised now vn-
der the happy government of our King,
the life both of them and vs: this
is the worke, take it in good
part: the Title but be-
gun, may better be
satisfied here-
after.

* *
* *



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